

Assembly Bill No. 2530

Passed the Assembly August 28, 2012

Chief Clerk of the Assembly

Passed the Senate August 23, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 6030 of, to add Section 3407 to, and to repeal Section 5007.7 of, the Penal Code, and to amend Sections 222 and 1774 of the Welfare and Institutions Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2530, Atkins. Inmates in labor.

(1) Existing law requires that a female inmate have the right to summon and receive the services of a physician and surgeon of her choice in order to determine whether she is pregnant and, if determined to be pregnant, is entitled to receive needed medical services, as specified. Existing law requires the posting of these rights in a conspicuous place to which all female inmates have access. Additionally, existing law requires pregnant inmates who are transported to a hospital outside the prison for the purpose of childbirth to be transported in the least restrictive way possible and, upon arrival at the hospital, prohibits shackling by the wrists, ankles, or both, unless deemed necessary for safety, when the inmate is in active labor as determined by the attending physician.

This bill would prohibit a pregnant inmate, as defined, in labor, in recovery, or after delivery, from being restrained by the use of leg irons, waist chains, or handcuffs behind the body. The bill would prohibit, in these circumstances, restraint by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public. The bill would require the standards established by the Board of State and Community Corrections to require that pregnant inmates to be advised, orally or in writing, of standards and policies governing pregnant inmates.

(2) Existing law requires the Board of State and Community Corrections to establish minimum standards for local correctional facilities, which include standards governing pregnant inmates.

This bill would require the board, at the next biennial meeting after the enactment of this measure, to adopt standards regarding the restraint of pregnant women and to review local facilities' compliance.

(3) Existing law requires that a female ward of the juvenile court or a female who has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, who is pregnant, have the right to summon a physician and surgeon of her choice to determine if she is pregnant and to receive medically necessary care if she is found to be pregnant, as specified. Existing law prohibits a pregnant ward or pregnant juvenile inmate from being shackled by the wrists, ankles, or both, while in labor, requires pregnant inmates who are transported to a hospital outside the facility for the purpose of childbirth to be transported in the least restrictive way possible, and prohibits shackling by the wrists, ankles, or both, unless deemed necessary for safety, when the female is in active labor.

This bill would prohibit a ward who is known to be pregnant or in recovery after delivery from being restrained by the use of leg irons, waist chains, or handcuffs behind the body, including while being transported to a hospital outside the facility. The bill would prohibit, in these circumstances, restraint by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public.

The people of the State of California do enact as follows:

SECTION 1. Section 3407 is added to the Penal Code, to read:

3407. (a) An inmate known to be pregnant or in recovery after delivery shall not be restrained by the use of leg irons, waist chains, or handcuffs behind the body.

(b) A pregnant inmate in labor, during delivery, or in recovery after delivery, shall not be restrained by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public.

(c) Restraints shall be removed when a professional who is currently responsible for the medical care of a pregnant inmate during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary.

(d) This section shall not be interpreted to require restraints in a case where restraints are not required pursuant to a statute, regulation, or correctional facility policy.

(e) Upon confirmation of an inmate's pregnancy, she shall be advised, orally or in writing, of the standards and policies governing pregnant inmates, including, but not limited to, the provisions of this chapter, the relevant regulations, and the correctional facility policies.

(f) For purposes of this section, "inmate" means an adult or juvenile who is incarcerated in a state or local correctional facility.

SEC. 2. Section 5007.7 of the Penal Code is repealed.

SEC. 3. Section 6030 of the Penal Code is amended to read:

6030. (a) The Board of State and Community Corrections shall establish minimum standards for local correctional facilities. The board shall review those standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following areas: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local correctional facilities, and personnel training.

(c) The standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) The standards shall require that inmates who are received by the facility while they are pregnant be notified, orally or in writing, of and provided all of the following:

(1) A balanced, nutritious diet approved by a doctor.

(2) Prenatal and post partum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor.

(3) Information pertaining to childbirth education and infant care.

(4) A dental cleaning while in a state facility.

(f) The standards shall provide that a woman known to be pregnant or in recovery after delivery shall not be restrained, except as provided in Section 3407. The board shall develop standards regarding the restraint of pregnant women at the next biennial review of the standards after the enactment of the act amending this subdivision and shall review the individual facilities' compliance with the standards.

(g) In establishing minimum standards, the board shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Public Health, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in correctional facilities:

The Department of Corrections and Rehabilitation, state and local juvenile justice commissions, state and local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections and Rehabilitation, state and local correctional officials, and other interested persons.

(5) For female inmates and pregnant inmates in local adult and juvenile facilities:

The California State Sheriffs' Association and Chief Probation Officers' Association of California, and other interested persons.

SEC. 4. Section 222 of the Welfare and Institutions Code is amended to read:

222. (a) A female in the custody of a local juvenile facility shall have the right to summon and receive the services of a physician and surgeon of her choice in order to determine whether she is pregnant. If she is found to be pregnant, she is entitled to a determination of the extent of the medical services needed by her and to the receipt of those services from the physician and surgeon of her choice. Expenses occasioned by the services of a physician and surgeon whose services are not provided by the facility shall be borne by the female.

(b) A ward who is known to be pregnant or in recovery from delivery shall not be restrained except as provided in Section 3407 of the Penal Code.

(c) For purposes of this section, "local juvenile facility" means a city, county, or regional facility used for the confinement of juveniles for more than 24 hours.

(d) The rights provided to females by this section shall be posted in at least one conspicuous place to which all female wards have access.

SEC. 5. Section 1774 of the Welfare and Institutions Code is amended to read:

1774. (a) A female who has been committed to the Division of Juvenile Facilities shall have the right to summon and receive the services of a physician and surgeon of her choice in order to determine whether she is pregnant. The director may adopt reasonable rules and regulations with regard to the conduct of examinations to effectuate that determination.

(b) If she is found to be pregnant, she is entitled to a determination of the extent of the medical services needed by her and to the receipt of those services from the physician and surgeon of her choice. Expenses occasioned by the services of a physician and surgeon whose services are not provided by the facility shall be borne by the female.

(c) A ward who gives birth while under the jurisdiction of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or a community treatment program has the right to the following services:

- (1) Prenatal care.
- (2) Access to prenatal vitamins.
- (3) Childbirth education.

(d) A ward who is known to be pregnant or in recovery after delivery shall not be restrained except as provided by Section 3407 of the Penal Code.

(e) A physician providing services pursuant to this section shall possess a current, valid, and unrevoked certificate to engage in the practice of medicine issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(f) The rights provided to females by this section shall be posted in at least one conspicuous place to which all female wards have access.

Approved _____, 2012

Governor